# BEFORE THE BOARD OF PSYCHOLOGIST EXAMINERS

## FOR THE STATE OF ARIZONA

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In the Matter of:

Holder of License No. 4380

in the State of Arizona

for the Practice of Psychology

R Russ, Ph.D.

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Docket No.: F-15-1414SYA

FINDINS OF FACT, CONCLUSIONS OF LAW, AND CONSENT AGREEMENT

On January 27, 2015, the Arizona Board of Psychologist Examiners (Board) filed a Complaint and Notice of Public Hearing (Complaint) in which it alleged that R. Russ, Ph.D. (Licensee) engaged in unprofessional conduct by violating A.R.S. § 32-2061 (15)(c), "[m]aking or using statements of a character tending to deceive or mislead," A.R.S. § 32-2061 (15)(i), "[c]omission of a felony," A.R.S. § 32-2061 (15)(j), "[m]aking a fraudulent or untrue statement to the board or its investigators, staff or consultants," and A.R.S. § 32-2061 (15)(m), "[u)sing fraud, misrepresentation or deception to obtain or attempt to obtain a psychology license...." Licensee understands the seriousness of these allegations, and further is aware of the factual basis for these allegations. He acknowledges his failure to provide accurate answers to certain questions on the application he submitted to obtain an Arizona psychology license and in communication with the Board, its investigators, staff or consultants, and while he maintains that he can provide credible explanations for the substance of the answers and information he provided, he believes it to be in the best interests of all of the parties concerned, and the public, to enter into this Consent Agreement.

### **JURISDICTION**

1. The Board is the state agency authorized pursuant to Arizona Revised Statute ("A.R.S.") §§ 32-2061 et. seq., and the rules promulgated thereunder, found in Arizona

Administrative Code ("A.A.C." or "rules") at R4-26-101 *et seq.*, to regulate and control the licensing of psychologists in the State of Arizona.

- 2. Licensee holds a license to practice as a psychologist in the State of Arizona, License number 4380, issued March 13, 2013, pursuant to A.R.S.§ 32-2071 et seq.
- 3. The Board has personal and subject matter jurisdiction over Licensee pursuant to A.R.S. §§ 32-2061 et. seq.

## CONSENT AGREEMENT

Licensee understands and agrees that:

- 4. The Board and Licensee enter into this Consent Agreement to promptly and judiciously resolve this matter, consistent with the public interest and the statutory requirements of the Board.
- 5. The Board has jurisdiction over Licensee and the subject matter pursuant to A.R.S. §§ 32-2061 *et. seq.*
- 6. Licensee has the right to consult with an attorney prior to entering into this Consent Agreement.
- 7. Licensee has a right to a public hearing concerning this case. Licensee further acknowledges that at such formal hearing, he could present evidence and cross-examine witnesses.
  Licensee irrevocably waives any right to such a hearing.
- 8. Licensee irrevocably waives any right to rehearing or review or to any judicial review or any other appeal of this matter.
- 9. Although Licensee does not agree that each of the allegations in the Complaint are supported by the evidence, he acknowledges that some of the allegations are true and further that it is the Board's position that if this matter proceeded to formal hearing, the Board could establish sufficient evidence to support a conclusion that certain of Licensee's conduct constituted unprofessional conduct. Licensee therefore has agreed to enter into this Consent Agreement in part to take and accept responsibility for his actions and also as an economical and practical means for the parties to resolve the issues raised in the Complaint.

- 10. The Consent Agreement shall be subject to the Board's approval and shall be effective only when signed by the Executive Director and accepted by the Board. In the event that the Board does not approve this Consent Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor introduced in any action by any party, expect that the parties agree that if the Board rejects this Consent Agreement and this case proceeds to hearing, Licensee shall assert no claim that the Board was prejudiced by its review and discussion of this document or any other records relating thereto.
- 11. The Consent Agreement, once approved by the Board and signed by the Executive Director, shall constitute a public record that may be disseminated as a formal action of the Board and shall be reported to the National Practitioner Data Bank.

## FINDINGS OF FACT

12. Question #20 of the August 27, 2012 Application that Licensee submitted asked:

Are you currently awaiting trial, under indictment, have been convicted of, pled no contest or guilty to any felony or a misdemeanor other than a minor traffic offense or ever entered into a diversion program instead of prosecution, including any convictions that have been expunged, pardoned or deleted? (If yes, please include in your explanation the status of resolution and expected resolution date).

Licensee answered "No" to that question despite the fact that the correct answer was yes, referring to an event in his life that commenced in April 1981.

- 13. Licensee maintains that it was not his intention to misrepresent his past or mislead the Board, but rather than he genuinely believed that, because records relating to this event had been expunged and the case ultimately dismissed, he was legally within his rights to answer "No" to that question.
- 14. Licensee now acknowledges that his response to that question should have been "Yes" and that he should have provided the further explanation requested in Question #20.
- 15. Licensee also responded "No" to Question #14 of the August 27, 2012 Application that Licensee submitted. That question asked:

Has any state or province ever initiated disciplinary action against, or suspended or revoked your professional license, certification, or registration?

- 16. Licensee now acknowledges that his response to that question should have been "Yes" and that he should have provided the further explanation requested in Question # 14 with respect to teaching licenses that he held in Washington, which he voluntarily surrendered in the course of an investigation about false and exaggerated statements made in a job application, and in Alaska, where his license was revoked as a result of an investigation of the circumstances surrounding his voluntary surrender of his Washington license.
- 17. In the course of the investigation in Washington, there was evidence presented that Licensee signed the name of a previous supervisor in documentation submitted in furtherance of his application for an employment position, without the knowledge or the authority of the former supervisor. While Licensee maintains that he did not sign that person's name, the investigator in that case concluded that Licensee's denial was not credible.
- In an August 7, 2013 letter to the Board's staff, Licensee stated, with respect to his Washington State Counselor Registration, that "In Washington I held what was once called a Registered Counsellor (sic), which was a designation that was discontinued sometime between 2008 and 2010." Licensee did not disclose any disciplinary/enforcement action related to that registration. An on-line credential search performed by a member of the Board's staff revealed that Licensee held a Counselor Registration active from October 8, 1993 to June 30, 2010, with respect to which there was an enforcement action. Licensee maintains that it was not his intention to withhold that information and acknowledges that he should have been forthcoming and reported it when he reported the fact of his having held a Registered Counselor position.
- 19. Licensee affirmatively states that his teaching license was subsequently fully restored in Washington, even with the information that resulted in his voluntary surrender of his license, and that he is eligible to reapply for a teaching license in Alaska, although he has no intention of doing so.
- 20. Licensee affirmatively states that never in the course of his clinical practice in behavioral health or psychology has there ever been a patient complaint about the services he provided.

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- 21. Licensee is not presently practicing psychology in the State of Arizona and has no intention to do so in the future, living and working as he does in another State.
- 22. Licensee has notified the regulatory agencies in Washington and the Canadian Provinces Alberta and British Columbia of the pending disciplinary proceeding and has requested the regulatory agencies in each jurisdiction to formally open an investigation based on the allegations in the Complaint.
- Licensee has a website, but does not now and has no intention in the future of engaging 23. in any online or telephonic counselling or psychological services requiring licensure.
- 24. Licensee's license expires in April 2015 and Licensee will not seek now and has no present intention of seeking renewal of his license or reapplying for a new license after the current license expires.

## CONCLUSIONS OF LAW

25. The conduct and circumstances described above, if supported by the facts alleged, would constitute unprofessional conduct, including A.R.S. § 32-2061 (15)(j), for making an untrue statement to the Board or its investigators, staff or consultants, and A.R.S. § 32-2061 (15)(m), for using misrepresentation or deception to obtain a psychology license.

#### ORDER

26. Based upon the foregoing Findings of Fact and Conclusions of Law, the parties agree as follows: Pursuant to A.R.S. § 32-2081 (Q), the Board has determined that Licensee's conduct in connection with Docket No. 15F-1414-SYA warrants disciplinary action.

Based upon the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED THAT:

- 27. **CENSURE**: Licensee is hereby issued a Decree of Censure regarding the violation of A.R.S. § 32-2061(15) as it relates to the unprofessional conduct that is in issue in this case.
- 28. **CESSATION OF PRACTICE:** Licensee will not practice psychology in the State of Arizona from the effective date of this Consent Agreement through the expiration date of his current license, and will not hold himself out as someone licensed to practice psychology in the State of

Arizona. The effective date of this Consent Agreement is the date that it is signed by the Board's Executive Director, or her designee, on behalf of the Board.

- 29. Further, Licensee will not submit an application to renew his license when it expires in April 2015 and Licensee will not apply for another psychologist's license in the State of Arizona at any time without the Board's prior written approval.
- 30. OTHER PRACTICE AS LICENSED PSYCHOLOGIST: Licensee represents that he will not seek licensure to practice psychology in any other jurisdiction besides those jurisdictions in which he is currently licensed.
- 31. In agreeing to enter into this Consent Agreement this Board has relied on this representation by Licensee and it will be a material breach of this Consent Agreement, resulting in the retroactive reversion of this Consent Agreement to a stipulated revocation of his license, with appropriate reporting thereof, if Licensee seeks licensure in a jurisdiction other than a jurisdiction in which he is presently licensed.
- 32. <u>INTERNET OR WEB-BASED PRACTICE:</u> Licensee represents that he has a website, but does not now and shall not in the future engage in any online or telephonic counselling or psychological services requiring licensure.
- 33. In agreeing to enter into this Consent Agreement, this Board has relied on this representation by Licensee and it will be a material breach of this Consent Agreement, resulting in the retroactive reversion of this Consent Agreement to a stipulated revocation of his license, with appropriate reporting thereof, if Licensee engages in any online or telephonic psychological services or counselling services requiring licensure.
- 24. CONSENT TO REVOCATION WITHOUT NOTICE FOR NON-COMPLIANCE: Any violation of any of the terms of this Consent Agreement will result in the retroactive reversion of this Consent Agreement to a stipulated revocation of Licensee's license, with appropriate reporting thereof. A violation of this Order is a violation of A.R.S. § 32-2061 (15)(aa), which is "[v]iolating a formal board order, consent agreement, term of probation or stipulated agreement issued under this chapter."

- 35. **EFFECTIVE DATE:** Licensee understands that the foregoing Consent Agreement and Order shall not become effective unless and until adopted by and executed on behalf of the Board, Any modification to this original document is ineffective and void unless mutually approved by the parties in writing.
- 36. CONSIDERATION IN FUTURE ACTIONS: Licensee understands that this Order, or any part thereof, may be considered in any future disciplinary action against him.
- 37. FINAL RESOLUTION: This Order constitutes a final resolution of this disciplinary matter but does not constitute a dismissal or resolution of other matters currently pending before the Board, if any, and does not constitute any waiver, expressed or implied, of the Board's statutory authority or jurisdiction regarding any other pending or future investigations, actions or proceedings. Further, this Order does not preclude any other agency, subdivision or officer of this State from instituting other civil or criminal proceedings with respect to the conduct that is the subject of this Order.
  - 38. **TIME:** Time is of the essence with regard to this Order.
- 39. **COSTS:** Licensee shall be responsible for all costs incurred as a result of his compliance with this Order.
- **PUBLIC RECORD:** This Consent Agreement and Order is a public record that may 40. be publicly disseminated as a formal action of the Board and shall be reported to the National Practitioner Data Bank.

DATED THIS 3/ day of March, 2015

ARIZONA BOARD OF **PSYCHOLOGIST EXAMINERS** 

R Russ, Ph.D

Licensee

**Executive Director** 

ORIGINAL of the foregoing filed this 31 st day of March 2015, with: 3 The Arizona State Board of Psychologist Examiners 1400 West Washington, Suite 240 Phoenix, Arizona 85007 5 6 COPY mailed by Certified Mail, No. 7009 2250 0001 7372 7954 this 31st day of March 2015 to: R Russ, Ph.D. 9 Address on Record 10 COPY mailed this 3/51 day of March 2015, to: 11 12 Larry Cohen The Cohen Law Firm 13 P.O.Box 10056 14 Phoenix, AZ 85064 15 COPY mailed this 315t day of March 2015, to: 16 17 Natalia Ter-Grigoryan 18 Tiffany & Bosco, P.A. 2525 East Camelback Rd., Seventh Floor 19 Phoenix, AZ 85016-4237 20 COPY of the foregoing mailed by interagency 21 this 315 day of March 2015, to: 22 23 Jeanne M. Galvin, AAG Office of the Attorney General CIV/LES 1275 West Washington 25 Phoenix, Arizona 85007 26 27